

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER
Attorney General

Writer Direct: (518) 473-6288
March 5, 2002

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Hon. David R. Homer
United States District Court
C/O Inmate Litigation
P.O. Box 7367
100 South Clinton Street
Syracuse, New York 13261-7367

**U.S. DISTRICT COURT
N.D. OF N.Y.
FILED**

APR 10 2002

Re: *Villante v VanDyke*
Northern District of New York
99-CV-830 (LEK)(DRH)

**LAWRENCE K. BAERMAN, CLERK
ALBANY**

Dear Judge Homer:

In light of the recent decision by the United States Supreme Court in *Porter v. Nussle*, 2002 U.S. Lexis 1373, February 26, 2002 (a copy attached hereto for the convenience of the court), which requires exhaustion of all inmate claims and represents a change in the law in this Circuit, defendants herein respectfully request leave to make a summary judgment motion in the above action on the exhaustion issue. A review of the file indicates that plaintiff failed to exhaust administrative remedies.

Thank you very much for your consideration of this matter.

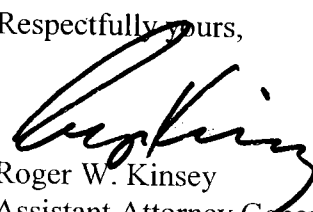
Granted: ☒
Denied: ☐

IT IS SO ORDERED

Albany, New York
Dated: 4-9-02


Lawrence E. Kahn
United States District Judge

Respectfully yours,


Roger W. Kinsey
Assistant Attorney General
Bar Roll No. 508171

Enclosure